

1  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK

4 LAURA POLANCO,

5 PLAINTIFF,

6 -against-

Case No.:  
14 CV 7986(NRB)

7 CITY OF NEW YORK, ADAM GARGIR, Individually,  
8 JOSE SANTORY, Individually, HOWARD ROTH,  
9 Individually, MICHAEL CHAVARRIA,  
10 Individually, LUIS MARTE, Individually,  
11 WILLIAM ESPOSITO, Individually, and JOHN and  
JANE DOE 1 through 10, Individually, (the  
names John and Jane Doe being fictitious, as  
the true names are presently unknown),

12 DEFENDANTS.

13  
14 DATE: January 3, 2017

15 TIME: 11:27 a.m.

16  
17 DEPOSITION of the Non-Party, FLORENTINO  
18 CANELA ZORRILLA, taken by the Respective  
19 Parties, pursuant to a Subpoena and to the  
20 Federal Rules of Civil Procedure, held at  
21 the offices of Brett H. Klein, Esq., PLLC,  
22 305 Broadway, Suite 600, New York, New York  
23 10007, before Anna Vortsman, a Notary Public  
24 of the State of New York.  
25

1 F. C. ZORRILLA

2 the business with the police -- it's like  
3 two, three blocks, when I went with the  
4 police.

5 Q. And what had happened at the first  
6 location that you're not sure of?

7 A. There was a drunken person who  
8 struck -- collided with my car, both in  
9 front and in back, twice, front and back.

10 Q. Before he first struck your car,  
11 had something happened?

12 A. He had fought with some other  
13 people who were close to us. They had been  
14 hitting...

15 Q. So you observed him fighting with  
16 some other people?

17 A. Yes.

18 Q. And you knew those other people?

19 A. No.

20 Q. When you say they were close to  
21 you, what did you mean?

22 A. A distance of about three cars --  
23 car distance away in front.

24 Q. Do you know what had caused that  
25 fight that you were observing?

1 F. C. ZORRILLA

2 A. Yes.

3 Q. And then what happened after that?

4 A. He made a reverse and he left.

5 Q. And what did you do?

6 A. At that moment the police arrived.

7 They were passing by.

8 Q. Did you flag them down somehow?

9 A. Yes. They stopped.

10 Q. Did they stop because you waved at  
11 them or they just stopped on their own, if  
12 you know?

13 A. We signaled to them.

14 Q. Who else were you with during this  
15 incident?

16 A. My girlfriend. There were  
17 three -- actually, four more people.

18 Q. And who were they? Friends,  
19 family?

20 A. My girlfriend's sister and the  
21 husband of that sister, and two friends  
22 besides.

23 Q. Did any of you get injured from  
24 the gentleman striking your car with his  
25 vehicle?

1 F. C. ZORRILLA

2 A. They went to the hospital, but  
3 there was no major injury at all.

4 Q. And did you have any injuries?

5 A. I only had pain in my back.

6 Q. How long did that last?

7 A. Almost two months.

8 Q. And the vehicle that you were in,  
9 was that your vehicle?

10 A. It was my own, but it was under  
11 the name of my ex-wife.

12 Q. And was that vehicle damaged?

13 A. Total loss.

14 Q. Did you or your ex-wife have  
15 insurance for the vehicle?

16 A. Yes.

17 Q. Did insurance give you -- cover  
18 the damage to the vehicle?

19 A. No.

20 Q. Do you know if the gentleman who  
21 struck your vehicle -- did his vehicle have  
22 insurance?

23 A. It was expired.

24 Q. Was there any type of proceeding  
25 or lawsuit or claim made related to your

1 F. C. ZORRILLA

2 vehicle that you're aware of?

3 A. I don't remember.

4 Q. So you never received any type of  
5 payment for the damage to the vehicle,  
6 though, your vehicle?

7 A. No.

8 Q. And neither did your ex-wife?

9 A. No.

10 Q. After you flagged down the police  
11 officers, what happened?

12 A. I told them where the vehicle had  
13 gone through, where it had left, and another  
14 patrol car came by and remained with me.  
15 And they, the other ones, left so as to  
16 search and see if they could find anybody in  
17 the area.

18 Q. Did you ever get the names of any  
19 of the police officers who you interacted  
20 with?

21 A. No.

22 Q. Can you describe any of them?

23 A. There was one who was Hispanic,  
24 tall. The color of his skin would be like  
25 my own. The other one, I remember is short,

1 F. C. ZORRILLA

2 kind of heavysset.

3 Q. The tall Hispanic, was he in the  
4 first vehicle you flagged down or in the  
5 second vehicle that came?

6 A. The first vehicle.

7 Q. And how about the short one that  
8 you remembered?

9 A. That one came in another vehicle.

10 Q. Is there anything you remember  
11 about the conversation you had with the  
12 officers in the first vehicle?

13 A. Yes. I told them that he struck  
14 me twice, collided with me twice. Nothing  
15 else.

16 Q. Did you tell those officers  
17 anything about the fights you had observed  
18 happening?

19 A. No. I don't remember. No. No, I  
20 didn't tell them about that.

21 Q. And then the second -- the  
22 officers in the second vehicle who came, do  
23 you remember anything about what you spoke  
24 to them about?

25 A. No. He told them what the car

1 F. C. ZORRILLA

2 was, and they left to see if they could  
3 search and find the car.

4 Q. The second vehicle went on the  
5 search?

6 A. Correct.

7 Q. So just so I understand, the  
8 officers in the first vehicle told the  
9 officers in the second vehicle where they  
10 should go and search?

11 A. We told them to go through that  
12 area. So they went up that area to see if  
13 they could find him.

14 Q. Did you speak to the police  
15 officers in both of the vehicles or just one  
16 set of the officers?

17 A. I spoke only to the officers that  
18 came in the first vehicle, because my  
19 English is not very good and the first  
20 officer was Hispanic.

21 Q. So you primarily spoke to the  
22 Spanish-speaking officer?

23 A. Correct.

24 Q. Did any of the people who you were  
25 with speak to any of the officers, or was it

1 F. C. ZORRILLA

2 just you?

3 A. It was me.

4 Q. After the vehicle left to go  
5 search for the man, how long did you remain  
6 at the location?

7 A. 10 or 15 minutes.

8 Q. And what were you doing during  
9 those 10 or 15 minutes, if anything?

10 A. I was just standing next to my  
11 car.

12 Q. I want to just go back to what you  
13 were describing with the fight and before  
14 the police came, very quickly.

15 Is there anything else that you  
16 remember happening that you didn't describe  
17 earlier?

18 A. No.

19 Q. After the 10 or 15 minutes that  
20 you were waiting, after those first police  
21 officers left, what happened?

22 A. We waited for them to call us to  
23 see if something had happened.

24 Q. Was the tall Hispanic officer  
25 waiting with you or was it other officers?



1 F. C. ZORRILLA

2 A. He was waiting there with me.

3 Q. And after you waited, did  
4 something happen after that?

5 A. No.

6 Q. Did you go anywhere from the  
7 location where the food truck was?

8 A. No. I remained there standing  
9 after the incident until the police came to  
10 pick me up so that I could go and identify  
11 the person who had collided against me.

12 Q. So the police who picked you up,  
13 was that the car that had been driving  
14 around looking for the person?

15 A. No. I left with the Hispanic  
16 police officer. He took me.

17 Q. Did that officer tell you where he  
18 was taking you or what was happening?

19 A. Yes. He told me to go, so that I  
20 could identify the person.

21 Q. Were you the only person who went  
22 with the officer?

23 A. Yes.

24 Q. The people you were with, they  
25 stayed at the location where the food truck

1 F. C. ZORRILLA

2 was?

3 A. Further ahead in my car.

4 Q. And when you left with the  
5 officer, where were you in his vehicle?

6 A. In the rear.

7 Q. And how many officers were in the  
8 vehicle with you?

9 A. Only he. Only he.

10 Q. Only the tall Hispanic officer?

11 A. Yes.

12 Q. So he was in the front, driving  
13 the vehicle?

14 A. Yes.

15 Q. Do you remember what type of  
16 vehicle it was? Was it a marked police car  
17 or an unmarked police car?

18 A. It had police marks.

19 Q. Did it have any kind of partition  
20 between the backseat and the front seat?

21 A. Yes, ma'am.

22 Q. So you were in the rear of the  
23 vehicle; is that right?

24 A. Correct.

25 Q. And where did the tall Hispanic

1 F. C. ZORRILLA

2 officer take you?

3 A. Where they had that gentleman  
4 detained in the vehicle.

5 Q. When you arrived at the location  
6 where they had the gentleman detained, what  
7 did you observe?

8 A. They had him in handcuffs. He was  
9 handcuffed. His hands were behind him and  
10 he was leaning against the vehicle, his head  
11 against the vehicle.

12 Q. And how many officers was he with?

13 A. Two.

14 Q. Did you recognize those officers  
15 from the location you had been at before?

16 A. No. I was -- they were inside the  
17 vehicle, so I cannot say that I could  
18 recognize those officers.

19 Q. Just so I clarify, you mean they  
20 were inside of the vehicle at the first  
21 location?

22 A. Yes.

23 Q. So that you didn't get a good look  
24 at them before they went to go look for the  
25 man?

1 F. C. ZORRILLA

2 A. No.

3 Q. When you flagged down the car at  
4 the first location, how many officers were  
5 in it?

6 A. Two were in it, but I don't know  
7 where the other one went to.

8 Q. And he was not with you when you  
9 drove to the second location?

10 A. Only one police officer.

11 Q. And that was the tall Hispanic  
12 officer?

13 A. Correct.

14 Q. So when you arrived and you saw  
15 the gentleman handcuffed, leaning on the  
16 vehicle, what happened after that?

17 A. He asked me if it were him.

18 Q. When you say "he," the tall  
19 Hispanic officer asked you?

20 A. Correct.

21 Q. And how far away were you from the  
22 gentleman when he asked you if it was him?

23 A. It was in the same street. It was  
24 more or less like over there, by here. The  
25 car was right across. Like, a car or

1 F. C. ZORRILLA

2 something-plus distance. It was in the same  
3 street.

4 Q. And were you looking from the  
5 backseat through the front windshield or  
6 something else to see the man?

7 A. I was parallel to him and at the  
8 window -- the car's window.

9 Q. Was it the driver side or the  
10 passenger side that you were looking  
11 through?

12 A. The passenger side.

13 Q. And when you saw the man, was it  
14 the same person?

15 A. Yes. The same car and everything  
16 that had struck me.

17 Q. And you told the Hispanic officer  
18 that it was the same?

19 A. Correct.

20 Q. Is there anything else that you  
21 and the officer spoke about at this time?

22 A. No.

23 Q. And what was the lighting like?  
24 Could you see the man clearly or was it dark  
25 out? You know, if you could describe it.

1 F. C. ZORRILLA

2 A. It was clear.

3 Q. And was it light from the streets  
4 or from the vehicles or both?

5 A. The street lights.

6 Q. Just going back, when you had  
7 first observed the man push the woman, do  
8 you know approximately what time it was?

9 A. It was very late in the morning.  
10 I don't remember.

11 Q. So at the point that you were with  
12 the police officer and looking at the second  
13 location, it was about 15 minutes later; is  
14 that right?

15 A. 10 or 15 minutes later.

16 Q. And this was all in the very early  
17 morning hours?

18 A. Correct.

19 Q. What happened after you told the  
20 officer that that was the same gentleman who  
21 had struck your vehicle?

22 A. There came down a short woman and  
23 another woman who was somewhat taller.

24 Q. Were either of those women at the  
25 first location?

1 F. C. ZORRILLA

2 A. No.

3 Q. So neither of those two women were  
4 the woman you had seen the gentleman push  
5 when you were at the food truck?

6 A. No.

7 Q. What happened after the shorter  
8 woman and the tall woman came down to the  
9 street?

10 A. They got close to the person who  
11 was detained.

12 Q. Both of them or just one of them?

13 A. The shorter one.

14 Q. So the shorter one got close to  
15 the man who was detained?

16 A. Yes.

17 Q. And what happened after the  
18 shorter woman got close to the man who was  
19 detained?

20 A. I remember that the police officer  
21 said to her, "Back off."

22 Q. And then what happened?

23 A. She continued to get close, and he  
24 would say to her, "Back off."

25 Q. And when this was happening, where

1 F. C. ZORRILLA

2 was the man in the handcuffs?

3 A. He was in the same place and he  
4 was shouting out, "Leave her alone. Relax."

5 Q. And when you say he was in the  
6 same place, he was bent over the police  
7 vehicle in handcuffs?

8 A. Yes.

9 Q. Was that the front -- the hood or  
10 the rear of the police vehicle?

11 A. Outside the rear of the vehicle.

12 Q. So he was all the way at the rear,  
13 like the end of the trunk, or to the side of  
14 the rear, if you understand?

15 A. He was with his hands like this,  
16 lying down over the police car.

17 Q. So indicating your hands behind  
18 your back in handcuffs?

19 A. Correct.

20 Q. He was not inside of the police  
21 vehicle when you saw him; is that correct?

22 A. No.

23 Q. So after the officer told the  
24 shorter woman again to get back, what  
25 happened?



1 F. C. ZORRILLA

2 A. She reacted and she struck the  
3 police officer in his genitals.

4 Q. The shorter female did?

5 A. Correct.

6 Q. When the officer was telling her  
7 to get back, did he touch the short female  
8 or was he just indicating?

9 A. He would just indicate.

10 Q. And when you say she struck him in  
11 the genitals, what did she use to strike  
12 him?

13 A. With the leg.

14 Q. And were you indicating your knee  
15 or was it a foot or something else?

16 A. With her knee.

17 Q. So she used her knee to strike him  
18 in the genitals?

19 A. Correct.

20 Q. And then what happened?

21 A. He remained there hurt, and then  
22 he reacted, and then he struck her with his  
23 fist two or three times.

24 Q. Where did he strike her with his  
25 fist, in her face or something else?

1 F. C. ZORRILLA

2 A. The face.

3 Q. And after he struck her two or  
4 three times in the face with his fist, what  
5 happened?

6 A. The one who had been handcuffed  
7 reacted, and he moved.

8 Q. What did he do?

9 A. The one who had been handcuffed  
10 reacted and pushed against one of the police  
11 officers. He pushed against the chubby  
12 police officer. So the police officer  
13 struck him again. He struck him twice.

14 Q. So the police officer who the  
15 short woman kneed or used her knee to strike  
16 in the genitals, was that the short chubby  
17 officer you were describing?

18 A. Yes.

19 Q. And the man in the handcuffs  
20 pushed against that same officer?

21 A. Correct.

22 Q. And then that short chubby officer  
23 struck the man in the handcuffs?

24 A. No. The other police officer  
25 struck him and pushed him. I don't remember

1 F. C. ZORRILLA

2 the face of the other police officer.

3 Q. So the second police officer then  
4 struck and pushed the man in the handcuffs?

5 A. Correct.

6 Q. And then what did you see happen  
7 after that?

8 A. Many police cars came.

9 Q. Did you see the tall or skinny  
10 female at all?

11 A. Yes. With all of the melee that  
12 happened, they also struck her. The police  
13 also pushed her.

14 Q. At what point did you see her  
15 being struck and pushed?

16 A. When she struck the short police  
17 officer. She wanted to intervene, and they  
18 pushed her.

19 Q. When you say, "When she struck the  
20 short officer," when who struck the short  
21 officer?

22 A. Which of the --

23 Q. I'll ask the question.

24 When you said, "When she struck  
25 the short police officer," were you meaning

1 F. C. ZORRILLA

2 when the short female struck the short  
3 police officer?

4 A. Yes. She was there and she wanted  
5 to intervene. They didn't strike her. They  
6 pushed her.

7 Q. So the short female struck the  
8 short police officer, and then the tall  
9 female wanted to intervene?

10 A. Correct.

11 Q. And was that after the short  
12 officer had punched the short female?

13 A. Correct.

14 Q. So the short officer punched the  
15 short female? Strike that.

16 Did you see the short female fall  
17 to the ground when she was punched?

18 A. Yes.

19 Q. Was it then that the tall  
20 female -- you saw the tall female do  
21 something?

22 A. She wanted to intervene.

23 Q. After the short female fell to the  
24 ground?

25 A. Correct.

1 F. C. ZORRILLA

2 Q. And what did she do? When you say  
3 "she wanted to intervene," what did you  
4 actually see her do?

5 A. She wanted, like, to separate her.

6 Q. To pull the short female back?

7 A. No. It's like she placed herself  
8 in the middle so that they wouldn't strike  
9 her.

10 Q. Wouldn't strike the short female?

11 A. Correct.

12 Q. And what did the police do to the  
13 tall female when she did that?

14 A. He did not strike her. He just  
15 pushed her.

16 Q. How?

17 A. He pushed her towards the side,  
18 separating her.

19 Q. With his hands?

20 A. With his hands.

21 Q. Was this the short officer or the  
22 one who you saw hitting the man?

23 A. The one who was on the side, the  
24 police.

25 Q. Was that a different police

1 F. C. ZORRILLA

2 officer?

3 A. There were two.

4 Q. So was it the short one or the one  
5 that you couldn't really describe that  
6 pushed the taller female away?

7 A. The tall one.

8 Q. Had you seen the tall one do  
9 anything before he pushed the tall woman to  
10 the side?

11 A. No.

12 Q. He was not the one who struck the  
13 man in the handcuffs?

14 A. At that moment, when he moved  
15 after that, that's when they pushed the  
16 woman.

17 Q. I'm confused with when who moved?

18 A. When the man who was in handcuffs  
19 moved, the police officer struck him once,  
20 pushed him back. She moved as well, and  
21 then the police pushed her.

22 Q. Where was the tall Hispanic  
23 officer at this point, if you know?

24 A. He got out of the car quickly and  
25 he went to the scene, but after all of that,

1 F. C. ZORRILLA

2 wish to continue with the suit, because the  
3 vehicle had been under her name.

4 Q. Do you still have a copy of the  
5 police report?

6 A. I'm not sure, because I moved. It  
7 may be that I do.

8 Q. If you could look for the police  
9 report and if you find it, if you could let  
10 me know. I would appreciate it.

11 A. Correct. Fine.

12 Q. Do you still have a copy of the  
13 subpoena that you received to tell you to  
14 come here today?

15 A. Yes.

16 Q. So my information is on that  
17 subpoena, if you're able to find the police  
18 report.

19 A. Okay. No problem.

20 Q. I want to go back to the Merriam  
21 Avenue location. Other than seeing the tall  
22 female trying to get in between -- is that  
23 what you described, that she tried to  
24 intervene by getting in between the short  
25 female?

1 F. C. ZORRILLA

2 A. Correct.

3 Q. Did you see her do anything other  
4 than that, before she was pushed?

5 A. No.

6 Q. Well, did she physically touch the  
7 shorter female, from what you could see?

8 A. Did she? No. She came close.

9 Q. And did she physically touch any  
10 police officers before you saw her pushed?

11 A. No.

12 MS. GREEN-STARK: Just give me a  
13 couple of minutes, and then I think I'm  
14 probably finished.

15 (Whereupon, a short recess was  
16 taken.)

17 BY MS. GREEN-STARK:

18 Q. So I just have one more question.  
19 In the event that we needed to contact you  
20 again and if your address or phone number  
21 changed, is there any other contact person  
22 or phone number you could give us to reach  
23 you at?

24 A. If you send me e-mail.

25 Q. Do you mind giving me -- and we